

**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES**

IN THE MATTER OF:

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Reg. No.: 2014-11423
Issue No.: 2007; 3001
Case No.: ██████████
Hearing Date: December 5, 2013
County: Oakland (03)

ADMINISTRATIVE LAW JUDGE: Eric Feldman

HEARING DECISION

Following Claimant's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, a telephone hearing was held on December 5, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department or DHS) included ██████████, Assistant Payment Supervisor, and ██████████ Eligibility Specialist.

ISSUE

Did the Department properly close Claimant's Food Assistance Program (FAP) benefits effective December 1, 2013, ongoing?

Did the Department properly calculate Claimant's Medical Assistance (MA) deductible in the amount of \$276 effective December 1, 2013, ongoing?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Claimant was an ongoing recipient of FAP benefits.
2. Claimant is an ongoing recipient of the Caretaker Relatives (G2C) MA coverage with a monthly \$276 deductible for December 1, 2013, ongoing.
3. On September 12, 2013, the Department received a Verification of Employment. See Exhibit 1.

4. On October 5, 2013, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits decreased to \$103 effective November 1, 2013, ongoing. See Exhibit 1.
5. In November 2013, Claimant provided the Department updated check stubs, which resulted in a higher income than reported in the Verification of Employment (DHS-38) and thus, the Department recalculated Claimant's FAP budget.
6. On November 1, 2013, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits were closed effective December 1, 2013, ongoing, due to her net income exceeding the limits. See Exhibit 1.
7. On November 6, 2013, Claimant filed a hearing request, protesting her FAP case closure and MA deductible. See Exhibit 1.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), Department of Human Services Reference Tables Manual (RFT), and Department of Human Services Emergency Relief Manual (ERM).

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food Stamp Act of 1977, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 271.1 to 285.5. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10 and Mich Admin Code, R 400.3001 to .3015.

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act, 42 USC 1396-1396w-5, and is implemented by 42 CFR 400.200 to 1008.59. The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10 and MCL 400.105.

FAP benefits

Claimant was an ongoing recipient of FAP benefits. On September 12, 2013, the Department received a Verification of Employment. See Exhibit 1. On October 5, 2013, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits decreased to \$103 effective November 1, 2013, ongoing. See Exhibit 1. In November 2013, Claimant provided the Department updated check stubs, which resulted in a higher income than reported in the Verification of Employment (DHS-38) and thus, the Department recalculated Claimant's FAP budget. On November 1, 2013, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits were closed effective December 1, 2013, ongoing, due to her net income exceeding the limits. See Exhibit 1.

BEM 556 states that if the income exceeds the maximum monthly net income, then deny benefits. BEM 556 (July 2013), p. 5. RFT 250, Column B. Monthly Net Income (100%) Limit states that a group size of five cannot have a net income limit over \$2,298. RFT 250 (October 2013), p. 1.

It was not disputed that the certified group size is five. However, the Department did not indicate that any FAP group members are a senior/disabled/disabled veteran (SDV) member. The Claimant, though, testified that her son is disabled. A review of Claimant's son's SOLQ document indicated that her son is an SSI recipient and is disabled. See Exhibit 1. Therefore, the Department erred in not recognizing that her son is an SDV member. Nevertheless, the Department presented the December 2013 FAP budget for review. See Exhibit 1.

A group's financial eligibility and monthly benefit amount are determined using: actual income (income that was already received) or prospected income amounts (not received but expected). BEM 505 (July 2013), p. 1. Only countable income is included in the determination. BEM 505, p. 1. Each source of income is converted to a standard monthly amount, unless a full month's income will not be received. BEM 505, p. 1. The Department converts stable and fluctuating income that is received more often than monthly to a standard monthly amount. BEM 505, p. 6. The Department uses one of the following methods: (i) multiply weekly income by 4.3; (ii) multiply amounts received every two weeks by 2.15; or (iii) add amounts received twice a month. BEM 505, pp. 7-8.

The Department calculated Claimant's gross earned income to be \$1,855. See Exhibit 1. This amount is based on Claimant submitted two biweekly pay stubs for the following amounts: gross pay of \$873.18 on 10/11/13 and a gross pay of \$862.52 on 10/25/13. See Exhibit 1. Converting Claimant's biweekly pay to a standard monthly amount, this results in a standard amount of \$1,865. BEM 505, pp. 7-8. The amount is higher than the calculated amount. However, this is harmless error as the Department budgeted a lesser amount and Claimant did not dispute this amount. Therefore, the Department properly calculated Claimant's gross earned income.

The Department also calculated Claimant's unearned income to be \$1,376. Claimant testified that each of her four children receives \$344 in Social Security benefits. See BEM 503 (July 2013), pp. 28-33.

The Department then obtained a total income amount of \$3,231 (unearned plus earned income). The Department then applied the 20 percent earned income deduction. BEM 550 (July 2013), p. 1. Twenty percent of \$1,855 is \$371, which results in a post earned income of \$2,860 (\$3,231 total income amount minus \$371 earned income deduction).

The Department then applied the \$190 standard deduction applicable to Claimant's group size of five. RFT 255 (October 2013), p. 1. Once the Department subtracts the \$190 standard deduction, this results in an adjusted gross income of \$2,670. See Exhibit 1.

It should be noted that Claimant testified that she had additional medical expenses to be applied as a deduction. However, only Claimant's son would qualify for a medical deduction. For groups with one or more SDV member(s), the Department allows medical expenses for the SDV member(s) that exceed \$35. BEM 554 (July 2013), p. 1. Claimant failed to provide any medical expenses for the son. Claimant and the additional FAP group members do not qualify for medical expenses if they are not an SDV member.

For groups with SDV members, the Department allows excess shelter. BEM 554, p. 1. However, as previously indicated, the Department erred in not acknowledging that her son as an SDV member. Instead, the Department applied the standard shelter maximum for non-SDV members of \$478. RFT 255, p. 1.

The Department presented an excess shelter budget, which indicated Claimant's monthly housing expense is \$950, which Claimant did not dispute. See Exhibit 1. Then, the Department gives a flat utility standard to all clients responsible for utility bills. BEM 554, pp. 12-13. The utility standard of \$553 (see RFT 255, p. 1.) encompasses all utilities (water, gas, electric, telephone) and is unchanged even if a client's monthly utility expenses exceed the \$553 amount.

Furthermore, the total shelter obligation is calculated by adding Claimant's housing expenses to the utility credit; this amount is found to be \$1,503. Then, the Department subtracts the total shelter amount from fifty percent of the \$2,670 adjusted gross income. Fifty percent of the adjusted gross income is \$1,335. When the Department subtracts the total shelter amount from fifty percent of the gross income, this results in an excess shelter deduction of \$168. Because this amount is less than the standard shelter maximum for non-SDV members, it again is harmless error and Claimant's shelter deduction is \$168.

Finally, the Department then subtracts the \$2,670 adjusted gross income from the \$168 excess shelter deduction, which results in a net income of \$2,502. See Exhibit 1. RFT 250, Column B. Monthly Net Income (100%) Limit states that a group size of five cannot have a net income limit over \$2,298. RFT 250, p. 1. Claimant's net income exceeds the \$2,298 income limit, thus, the Department properly closed Claimant's FAP benefits effective December 1, 2013, ongoing, due to excess net income.

It should also be noted that it is harmless error by the Department to not include her son as a SDV member as the budget above would not have been affected by the change.

MA deductible

As a preliminary matter, Claimant testified that the Department failed to process her medical expenses/bills. Claimant testified that she faxed the medical expenses to the Department beforehand. The Department was unable to determine if the medical

expenses/bills have been processed. Based on this information, the Department will process Claimant's submitted medical expenses/bills.

The Department provided a copy of Claimant's MA budget showing the calculation of her deductible for December 2013. Exhibit 1. Claimant was part of a household that included her and four minor children.

G2C is a FIP-related Group 2 MA category. BEM 135 (July 2013), p. 1. MA is available to parents and other caretaker relatives who meet the eligibility factors in this item. BEM 135, p. 1. All eligibility factors must be met in the calendar month being tested. BEM 135, p. 1.

Income eligibility exists when net income does not exceed the Group 2 needs in BEM 544. BEM 135, p. 3. The Department applies the MA policies in BEM 500, 530 and 536 to determine net income. BEM 135, p. 3. If the net income exceeds Group 2 needs, MA eligibility is still possible. BEM 135, p. 3.

The Department testified that it applied the same gross earned income of \$1,855 to the MA budget. The MA budget indicated an adult's prorated income of \$236 and an adult's share of adult's own income of \$684. The Department was unable to testify on how it calculated these amounts above. The Department was only able to testify that Claimant's net income of \$684 exceeds the \$408 protected income level (PIL) by \$276. See BEM 135, p. 2; BEM 544 (July 2013), p. 1; RFT 240 (July 2007), p. 1; RFT 200 (July 2007), p. 1. Therefore, it concluded that Claimant is eligible for MA coverage under the G2C program with a monthly deductible of \$276.

The local office and client or authorized hearing representative will each present their position to the ALJ, who will determine whether the actions taken by the local office are correct according to fact, law, policy and procedure. BAM 600 (July 2013), p. 33. Both the local office and the client or authorized hearing representative must have adequate opportunity to present the case, bring witnesses, establish all pertinent facts, argue the case, refute any evidence, cross-examine adverse witnesses, and cross-examine the author of a document offered in evidence. BAM 600, pp. 33-34. The ALJ determines the facts based only on evidence introduced at the hearing, draws a conclusion of law, and determines whether DHS policy was appropriately applied. BAM 600, p. 35

Based on the foregoing information and evidence, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it was unable to testify on how it calculated Claimant's deductible. The MA budget indicated an adult's prorated income of \$236 and an adult's share of adult's own income of \$684. See Exhibit 1. However, the Department was unable to testify on how it calculated these amounts above. Therefore, the Department will recalculate Claimant's MA deductible for G2C coverage for December 1, 2013, ongoing.

DECISION AND ORDER

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department (i) acted in accordance with Department policy when it properly closed Claimant's FAP benefits effective December 1, 2013, ongoing; (ii) failed to process Claimant's submitted medical expenses/bills in accordance with Department policy; and (iii) failed to satisfy its burden of showing that it acted in accordance with Department policy when it improperly calculated Claimant's MA deductible in the amount of \$276 effective December 1, 2013, ongoing.

Accordingly, the Department's FAP decision is AFFIRMED and the MA decision is REVERSED.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Process Claimant's submitted medical expenses/bills in accordance with Department policy;
2. Begin recalculating the MA budget for December 1, 2013, ongoing, in accordance with Department policy;
3. Issue supplements to Claimant for any MA benefits she was eligible to receive but did not from December 1, 2013, ongoing; and
4. Notify Claimant in writing of its MA decision in accordance with Department policy.



Eric Feldman
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: December 10, 2013

Date Mailed: December 10, 2013

NOTICE OF APPEAL: The claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt of the Decision and Order or, if a timely Request for Rehearing or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

Michigan Administrative Hearing System (MAHS) may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. MAHS will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 90 days of the filing of the original request (60 days for FAP cases).

A Request for Rehearing or Reconsideration may be granted when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;
- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The Department, AHR or the claimant must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date the hearing decision is mailed.

The written request must be faxed to (517) 335-6088 and be labeled as follows:

Attention: MAHS Rehearing/Reconsideration Request

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-07322

EJF/cl

cc: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]